

## Message Text

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ACTION L-03

INFO OCT-01 EUR-25 ADP-00 SCA-01 JUSE-00 CIAE-00 INR-10

NSAE-00 RSC-01 RSR-01 /042 W

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R 010635 Z MAY 73

FM AMEMBASSY BERN

TO SECSTATE WASHDC 7592

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E. O. 11652: N/ A

TAGS: EFIN, PFOR, US, SZ

SUBJ: MARKEES ON CHANGES IN TEXT OF DRAFT JUDICIAL ASSISTANCE  
TREATY

REF: BERN 1695

1. IN ADDITION TO LANGUAGE CHANGES MENTIONED IN REFTEL WHICH  
REPRESENT SWISS VIEWS ON US PAPER COMPARING ENGLISH AND GERMAN  
TEXTS OF DRAFT JUDICIAL ASSISTANCE TREATY, MARKEES MADE FOLLOWING  
GENERAL COMMENTS:

A. ARTICLE 5:3: B: AMBASSADOR WEITNAUER IS PERSONALLY DRAFTING  
NEW LANGUAGE WITH OBJECTIVE OF ACHIEVING GREATER CLARITY.  
BECAUSE OF AMBASSADOR' S PERSONAL INVOLVEMENT, MARKEES CANNOT  
SAY WHEN US WILL RECEIVE NEW SWISS PROPOSAL.

B. MARKEES SAYS HE FINDS VARIOUS USES OF TERM " REQUEST" JARRING,  
AND HE BELIEVES SWISS WHO HAVE SEEN DRAFT ENGLISH TEXT MAY BE  
CONFUSED BY SUCH FREQUENT USE OF TERMS " REQUEST," " REQUESTING,"  
AND " REQUESTED." PHRASES SUCH AS " UPON REQUEST, THE REQUESTED  
STATE SHALL..." ( ARTS 13:1 AND 16:1) SEEM PARTICULARLY AWKWARD.  
MARKEES WILL PROPOSE WITHIN SWISS DEL THAT ENGLISH TEXT BE  
CHANGED TO " UPON APPLICATION, THE REQUESTED STATE..." TO MAKE  
LANGUAGE MORE FELICTIOUS. HE EXPECTS HIS COLLEAGUES WILL ACCEPT  
PROPOSAL.

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C. SIMILAR TO POINT B ABOVE, MARKEES WILL PROPOSE THAT INTRODUCTION OF ART 12:1 BE CHANGED FROM " IF THE REQUESTING STATE EXPRESSLY REQUESTS..." TO " UPON EXPRESS APPLICATION BY THE REQUESTING STATE...".

2. RE ENGLISH TEXT OF DRAFT JUDICIAL ASSISTANCE TREATY DATED SEPTEMBER 29, 1972, MARKEES HAD FOLLOWING SPECIFIC COMMENTS:

A. ART 4:1: OCTOBER 8, 1971, VERSION OF ENGLISH TEXT USES TERM " COMMITTED" BETWEEN " IN RESPECT OF OFFENSES" AND " WITHIN ITS JURISDICTION." DURING NEGOTIATIONS IN LATE 1971, US AND SWISS AGREED TO CHANGES IN LANGUAGE OF ART 4:1 WHICH WERE INCORPORATED IN ENGLISH TEXT OF DECEMBER 9, 1971. HOWEVER, TERM " COMMITTED" WAS DROPPED FROM THIS AND SUBSEQUENT ENGLISH- LANGUAGE VERSION OF DRAFT TREATY. SWISS WILL REQUEST RESTORATION OF TERM " COMMITTED" TO ENGLISH TEXT.

B. ART 37:3. SWISS AIDE MEMOIRE OF FEBRUARY 18, 1972, HAD REQUESTED " IN FORCE IN THE TERRITORY" BE INSERTED BETWEEN " MUNICIPAL LAWS" AND " OF THE CONTRACTING PARTIES." US HAD ACCEPTED ADDITION IN ITS NOTE OF APRIL 20, 1972 ( WHICH WAS BASED ON STATE 067422, APRIL 20, 1972), BUT IT DOES NOT APPEAR IN ENGLISH TEXT OF DRAFT TREATY DATED SEPTEMBER 29, 1972.

C. IN SCHEDULE, ITEM 19( C), CHANGE " TURST" TO " TRUST."

D. IN SCHEDULE, ITEM 24, CHANGE " OF THE REQUESTING STATE..." TO " IN THE REQUESTING STATE...".

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\*\*\* Current Classification \*\*\* LIMITED OFFICIAL USE

## Message Attributes

**Automatic Decaptioning:** X  
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**Decaption Date:** 01 JAN 1960  
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**Disposition Approved on Date:**  
**Disposition Authority:** golinofr  
**Disposition Case Number:** n/a  
**Disposition Comment:** 25 YEAR REVIEW  
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**Reference:** 73 BERN 1695  
**Review Action:** RELEASED, APPROVED  
**Review Authority:** golinofr  
**Review Comment:** n/a  
**Review Content Flags:**  
**Review Date:** 28 SEP 2001  
**Review Event:**  
**Review Exemptions:** n/a  
**Review History:** RELEASED <28-Sep-2001 by rowellE0>; APPROVED <03-Dec-2001 by golinofr>  
**Review Markings:**

Declassified/Released  
US Department of State  
EO Systematic Review  
30 JUN 2005

**Review Media Identifier:**  
**Review Referrals:** n/a  
**Review Release Date:** n/a  
**Review Release Event:** n/a  
**Review Transfer Date:**  
**Review Withdrawn Fields:** n/a  
**Secure:** OPEN  
**Status:** <DBA CORRECTED> mcm 971118  
**Subject:** MARKEES ON CHANGES IN TEXT OF DRAFT JUDICIAL ASSISTANCE TREATY  
**TAGS:** EFIN, SZ, US  
**To:** L  
SECSTATE WASHDC  
**Type:** TE  
**Markings:** Declassified/Released US Department of State EO Systematic Review 30 JUN 2005